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EXAMINER
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BARTLEY, KENNETH

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3693

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/046,997	<b>Applicant(s)</b> BROWN ET AL.	
	<b>Examiner</b> Kenneth L. Bartley	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. Receipt of Applicant's amendment and response filed on September 17, 2007 is acknowledged.

#### *Response to Amendment*

2. Claims 1-3, 7-10, 14-16, and 19 are currently amended. Claim 20 is new. Claims 1-20 are pending in the application and are provided to be examined upon their merits.

#### *Response to Arguments*

3. Applicant's arguments filed September 17, 2007 have been fully considered but they are not persuasive.

First, the Examiner thanks the Applicant for the interview regarding in particular claim 1. In the current case, the amendment to the claim 1 had already occurred (was already in our system). The Examiner provides a detailed response to the claims below and carefully reviewed appropriate sections of Suzuki related to Applicant's claims.

Note that the Examiner responses are in **bold** below for clarity.

#### I. Request that the Application Be Considered Special

**Regarding Applicant's request that Application be considered "special" as described in MPEP 707.02, noted. The Examiner thanks the Applicant for their patience. The Examiner assures the Applicant that supervisory personnel**

Art Unit: 3693

**carefully review the Office Actions before they go forward. The Examiner also assures Applicant that it is in the interest of the Examiner to find the best art on the first search and that the Examiner makes every attempt to do so.**

**II. 35 U.S.C. § 112, Second Paragraph**

**Rejection of claims 1, 8, and 14 under 35 U.S.C. §112, 2<sup>nd</sup> paragraph for lack of antecedent basis is removed based on Applicant's amended claims.**

**Regarding rejection under 35 U.S.C. 112, 2<sup>nd</sup> paragraph for claims 1, 8, and 14. The Applicant has amended claims and the rejection is withdrawn.**

**Regarding rejection under 35 U.S.C. 112, 2<sup>nd</sup> paragraph for claim 1 that the steps are out of order. The Applicant argued that it is improper to read specific order for the steps. In consideration of this argument and MPEP citation, and on further review of the specification, the Examiner concurs and withdraws the rejection.**

**In summary, rejection of claims 1-19 under 35 U.S.C. 112, 2<sup>nd</sup> paragraph are withdrawn, which includes claims that depended from their respective independent claims.**

**III. 35 U.S.C. § 103, Obviousness**

**On the bottom of page 8, Applicant notes Examiner rejected claims 1-19 under 35 U.S.C. §103 using U.S. Patent No. 6,612,488 to Suzuki in view of Pub. No. US 2001/00521920 to Joao et al..**

**On pages 9 and 10, applicant traverses the rejection and provides copy of Office Action rejection to claims 1, 8 and 14.**

**Applicant argues on page 10, that only conclusory statements were used in arguments and that the prior art must teach or suggest all claim limitations:**

**The Examiner bears the burden of establishing a prima facie case of obviousness based on prior art when rejecting claims under 35 U.S.C. § 103. In re Fritch, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. KSR Int'l. Co. v. Teleflex, Inc., No. 04-1350 (U.S. Apr. 30, 2007) (citing In re Kahn, 441 F.3d 977, 988 (CA Fed. 2006)). Additionally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).**

**The Examiner respectfully points out that each claim element was addressed prior to claim amendments by citing specific sections in the prior art for each**

Art Unit: 3693

**element and respectfully disagrees that the citations used are conculsory statements.**

**On top of page 11, the Applicant continues:**

No prima facie obviousness rejection can be stated against amended claim 1 because neither Suzuki nor Joao teach or suggest all features of amended claim 1. Applicants first address the teachings of Suzuki. Suzuki does not teach or suggest the amended feature "responsive to receiving an instruction from a user associated with the account, authorizing the request when the second location and the first location are different" as recited in amended claim 1.

Suzuki states the following:

In this way, credit administration is carried out such that the location information for the cellular phone is used as the current location of the valid card user and is compared with the location information at the member store. If the difference between the location information is within a set value, it is determined that this card is being used by a valid cardholder; and if the difference between the location information is greater than a certain distance, it is determined that use of the card is fraudulent. Fraudulent use of the card through the loss or theft of the card or through the theft of card information can thereby be prevented.

Suzuki, column <12>, lines 51-62.

The above portion of Suzuki states "if the difference between the location information is greater than a certain distance, it is determined that use of the card is fraudulent." Suzuki teaches not authorizing the request if the location of the user is greater than a certain distance from the member store to prevent fraudulent use. Thus, Suzuki does not teach authorizing the request when the second location and the first location are different as recited in amended claim 1. Suzuki also does not suggest otherwise. Therefore, Suzuki does not teach or suggest all the features of amended claim 1.

**The Examiner agrees that the intention of Suzuki is to prevent transactions if the cell phone is not co-located with the location of the transaction.**

**The Applicant continues on the bottom of page 11 regarding Joao:**

Additionally, Joao does not teach or suggest the above-recited feature of amended claim 1. Joao teaches a method for notifying an account holder of a transaction request. Specifically, Joao states the following:

[0148] At step 37, the central processing computer 3 will then also transmit respective signals and/or data to any one or more of the cardholder's designated fax machine 5, personal computer or personal

Art Unit: 3693

digital assistant 6, telephone 7, telephone answering machine 8, alternate telephone 9, alternate telephone answering machine 10, network computer 11, and/or alternate beeper 12 or alternate pager 13.

[0149] The information and/or data which is transmitted to the communication device 4 includes information and/or data identifying the transaction and may include the name of the store or the service provider and the amount of the transaction. The information and/or data may also provide the time of the transaction, the location (i.e. city, town, village, state, country etc.) of the transaction. The information and/or data may also include the phone number of the central processing office and/or computer servicing the account so that the cardholder may telephone same in order to authorize or cancel the transaction. The information and/or data may also be supplemented to include the type of goods and/or services involved in the transaction, if such information can be entered at the point-of-sale device 2.

Joao, paragraphs 0148 and 0149.

The above portion of Joao states that a cardholder is notified of the details associated with a transaction request. The notification may be transmitted to one or more devices as indicated in paragraph 0148. The cardholder may then authorize or cancel the transaction.

However, Joao does not teach the recited features of amended claim 1. In particular, Joao does not teach "responsive to receiving an instruction from a user associated with the account, authorizing the request when the second location and the first location are different" as recited in amended claim 1. Joao does not teach determining a first location of a communication device associated with the account holder, a second location of the transaction, and a comparison between the first and the second location. Because Joao fails to teach any of these features, Joao does not teach or suggest the amended feature "responsive to receiving an instruction from a user associated with the account, authorizing the request when the second location and the first location are different" as recited in amended claim 1.

**At issue is whether Joao teaches receiving an instruction from a user authorizing a request when the location of a communication device is different from the location of a transaction.**

**The Examiner notes that Joao also teaches:**

**[0129] The apparatus 1 also comprises a cardholder communication device 4 which may receive signals and/or data from either or both of the point-of-sale device 2 and/or the central processing computer 3. In the preferred embodiment of FIG. 1, the communication device 4 receives signals and**

**data from the central processing computer 3 with said signals being transmitted via a suitable communication system. In the preferred embodiment, the communications system utilized for transmitting signals and/or data to the communication device 4 is a wireless telephone line and the communication device 4 is a telephone signal receiving device such as a telephone beeper or pager. The communication device 4 or pager receives the wireless telephone signals and/or data from the central processing computer 3 during the authorization procedure as will be described in more detail below.**

**[0151] The apparatus 1 will then, at step 39, wait for the cardholder to respond to the transmission. During this time, the cardholder may either utilize the reply or two-way pager feature on the communication device 4 in order to either approve or authorize the transaction or disapprove of or void the transaction. At step 39, the central processing computer 3 will also receive the response if one is sent. At step 40, the apparatus 1 will determine if the cardholder has made a reply or response within the pre-defined time limit which is chosen, in the preferred embodiment, to be one (1) minute. The cardholder may also transmit a signal via an appropriate key or button suspending use of the card such as when he or she may first be apprised of the fact that the card has been lost or stolen. In instances when the communication device 4 does not have a reply or two-way pager feature, the cardholder may simply telephone the central processing office or a processing center for the card in order to personally appraise the center or office of his or her response to the central processing computer transmission regarding the transaction.**

**Since authorization can be made from a location (central computer) different than the transaction (point-of-sale), a cardholder can approve transactions if away from the point-of-sale.**

**In response to applicant's argument that Joao does not teach actual locations of a communication device, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).**

**The Applicant concludes in the middle of page 12:**

**Accordingly, because neither Suzuki nor Joao teach or suggest all of the features of amended claim 1, the proposed combination of Suzuki and Joao when considered as a whole does not teach or suggest all of the features of claim 1.**

Art Unit: 3693

Therefore, no prima facie obviousness rejection can be stated against amended claim 1.

**The Examiner respectfully disagrees.**

**Also, in order to overcome the prior art, the Applicant has amended their claims to authorize a transaction when the location of the communication device is different from the location of the transaction. However, the Examiner finds the Applicant's invention directed toward authorization when the device and transaction location are co-located, not when they are separated.**

**The Examiner further notes that Applicant's specification states:**

**[0019] One aspect of the present invention relates to a method for authorizing transactions against an account. The account may be a credit, debit or other transaction account. A transaction is received that includes a request for authorization to charge an amount against the account. An ID for a communication device associated with the account is retrieved and the location of the communication device is determined. The location of the transaction is determined and compared with the location of the device. The request is then processed based on the location information received. The request is preferably denied when the location of the transaction is different from the location of the device. Alternatively, the request preferably is authorized when the location of the transaction is the same as the location of the device.**

**[0022] The present invention is directed to a system and method for reducing fraudulent transactions involving credit or debit type transaction cards. Briefly, the location of the transaction is compared to the real time physical location of a pre-defined communication device. Where the locations are the same, the transaction is authorized and where the locations are not the same, the transaction is denied. A transaction card account holder may set one or more device locations for verifying the location of the card holder at the time of a transaction.**

**[0033] ... In the case where the account holder is purchasing goods or services with a vendor over the phone or via the Internet, the merchant location information can be changed to the location of the account holder, such that the two locations will match. To effect the change in merchant location, the account holder may enter a unique character string or code to notify the central computer 104, that the merchant location should be changed. The merchant location may be changed to the account holder's current location as verified by their communication device 112, or a default "home" setting may be used. Account holders may change the required character string or code at**



**random, in order to prevent others from using their transaction card in these types of purchases.**

**The applicant continues on the bottom of page 12:**

Additionally, no prima facie obviousness rejection can be stated against the additional features of amended claim 7.  
Amended claim 7 is follows:

7. The method of claim 1 wherein the instruction substitutes a designation for the second location of the transaction with a predefined location, and wherein the predefined location is different from the second location.

The Examiner states the following in regards to claim 7:

Regarding claims 7 and 19:

The method of claim 1 further comprising substituting the location of the transaction with a predefined location.

Suzuki discloses:

"Transaction authorization computer 400 receives the results of the cellular phone location information detection, and, when the location information could be successfully acquired, the computer searches the member store information, stored in the database based on the member store number, for the location information in latitude and longitude format for the member store." (col. 12, lines 22-29).

Office Action dated June 21, 2007, page 6.

The above portion of Suzuki teaches determining the location of the member store by searching for the member store information in a database using a member store number. Suzuki does not teach substituting the location of the member store with another location. Applicants have amended claim 7 to clarify that the predefined location is a different location than the location of the member store. Because Suzuki purely identifies the location of the member store and does not teach substituting the member store location with a different location, Suzuki also does not suggest the additional features of amended claim 7.

Additionally, Joao does not teach or suggest the additional features of amended claim 7. The Examiner does not assert otherwise.

**The Examiner agrees that Suzuki does not teach a different predefined location (for a transaction). However, the Examiner respectfully asserts that Joao considers a predefined location:**

Art Unit: 3693

**[0041] In cases when the cardholder is the party to the transaction, he or she, having the communication device with, or on, his or her person, may authorize the transaction at the point-of-sale location or from his or her remote location. The cardholder may also program and/or set the communication device to automatically authorize or disapprove or disallow transactions.**

**The Applicant continues on page 13, 3<sup>rd</sup> paragraph:**

Furthermore, because claims 8 and 14 recite amendments similar to claim 1, the same distinctions between the cited references vis-a-vis claim 1 applies to these claims. Because the remaining claims depend from claims 1, 8, and 14, respectively, no prima facie obviousness rejection can be stated against the remaining claims. Thus, under the standards of *In re Royka*, no prima facie obviousness rejection can be stated against claims 1-20. Therefore, the rejection of claims 1-19 under 35 U.S.C. § 103 has been overcome.

**The Examiner respectfully disagrees for the reasons cited above.**

#### **IV. Conclusion**

**Applicant concludes on page 13:**

The subject application is patentable over the cited references and should now be in condition for allowance.

**In summary, the Examiner respectfully does not believe the claims are in condition for allowance for the above cited reasons and reasons provided below.**

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

6. Independent claims 1, 8, and 14 have been amended to include (claim 1 for example):

"... responsive to receiving an instruction from a user associated with the account, authorizing the request when the second location and the first location are different."

The Applicant cites the following in the specification for support:

Page 7, lines 1-19:

One aspect of the present invention relates to a method for authorizing transactions against an account. The account may be a credit, debit or other transaction account. A transaction is received that includes a request for authorization to charge an amount against the account. An ID for a communication device associated with the account is retrieved and the location of the communication device is determined. The location of the transaction is determined and compared with the location of the device.

The request is then processed based on the location information received. The request is preferably denied when the location of the transaction is different from the location of the device. Alternatively, the request preferably is authorized when the location of the transaction is the same as the location of the device.

A system for authorizing transactions against an account is also provided. The system includes an input device adapted to receive a transaction that includes a request for authorization to charge an amount against the account. A means for retrieving an ID for a communication device associated with the account is provided. The input device is coupled for data communications with the retrieving means. A means for determining the location of the communication device, a means for determining the location of the transaction, a means for comparing the location of the transaction with the location of the device, and a means for processing the request are also provided.

Page 17, lines 19-21

If account holders gives their transaction card to their child, for example, they may change the device ID to their child's mobile phone number. In addition, the account holder has the option of turning the device ID feature off such that the

Art Unit: 3693

transaction will be approved regardless of the location of a given communication device.

Page 12, line 19 – page 13, line 2

In the case where the account holder is purchasing goods or services with a vendor over the phone or via the Internet, the merchant location information can be changed to the location of the account holder, such that the two locations will match. To effect the change in merchant location, the account holder may enter a unique character string or code to notify the central computer 104, that the merchant location should be changed. The merchant location may be changed to the account holder's current location as verified by their communication device 112, or a default "home" setting may be used.

The Examiner does not find support for the amendment to the claim. Indeed, the specification teaches the merchant location is changed to that of the account holder so the locations match.

Claims 2-7, 9-13, and 15-20 are rejected because they depend from their respective independent claims.

7. Claims 2, 9, and 15 teach denying a request when a response to not receiving an instruction from a user occurs.

The Examiner is unable to find support in the specification where not receiving an instruction from a user denies a request.

8. Claims 7 and 19 have also been amended to include (claim 7 for example):

"The method of claim 1 wherein the instruction substitutes a designation for the second location of the transaction with a predefined location and wherein the predefined location is different from the second location."

The Examiner is unable to find support in the specification where an instruction can substitute a location for a predefined location.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,612,488 to Suzuki in view of Pub. No.: US 2001/0051920 to Joao et al..

**Note that the analysis for the method claims (1-7) also applies to the respective system claims (8-13) and product claims (14-19).**

Regarding claims 1, 8 and 14:

A computer implemented method for authorizing transactions against an account comprising:

Suzuki discloses:

Fig. 4, ref. 400 provides a "Transaction Authorization Computer" which has access to card information, ref. 432, which includes a card number. The card number would identify an individual account, as shown in Fig. 5.

Art Unit: 3693

receiving a transaction comprising a request for authorization to charge an amount against the account;

"Upon receiving a request for credit administration from the member store transaction terminal 300, the transaction processor 420 of the transaction authorization computer searches the database with the card number, checks for a "report of loss or theft", and compares the transaction amount with the amount available for purchases..." (col. 11, lines 58-65).

retrieving a communication device identification for a communication device associated with the account;

a "... cellular phone 100 registered in the card transaction system has a location information detection function." (col. 11, lines 32-35). The registered cellular phone is therefore a communication device with an ID.

determining a first location of the communication device using the communication device identification;

"In the present embodiment, the cellular phone system, including wireless network 600, provides a location information detection service. Wireless network 600 comprises a location information host computer for detecting the location of cellular phone 100. Location detection uses, for example, a method of finding the current location from the relative positions of cellular phone 100 and three base stations, such as are used in PHS (Personal Handyphone System), or a method of finding the current location with a GPS (Global Positioning Satellite) system using artificial satellites." (col. 11, lines 39-49).

"The location information host computer detects the current location information for the cellular phone in response to the detection request from transaction authorization computer 400." (col. 12, lines 14-17);

determining a second location of the transaction;

"Transaction authorization computer 400 receives the results of the cellular phone location information detection, and, when the location information could be successfully acquired, the computer searches the member store information, stored in the database based on the member store number, for the location information in latitude and longitude format for the member store." (col. 12, lines 22-29)

comparing the second location of the transaction with the first location of the communication device; and

"Transaction authorization computer 400 then compares this information with the current location information for the cellular phone and calculates the distance." (col. 12, lines 29-31).

Art Unit: 3693

responsive to not receiving the instruction from the user associated with the account, authorizing the request when the second location and the first location are different.

"When the results of the credit administration request are that "card use is allowed", transaction terminal 300 continues with the transaction processes, such as the issuing of the bill, using the received transaction authorization number and the user validation process." (col. 12, lines 43-48).

While Suzuki, in the business of credit authorization, provides for using wireless means to detect fraud, and provides detail information for various system and product components, he does not provide details, for example, of a generic point-of-sale device, central processing computer, or a communication device.

Joao et al., in the same field of endeavor of providing credit authorization using wireless means, provides such detail as a generic point-of-sale device, central computer, and a communication device (Fig. 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide such a system and product components, motivated by Joao et al., and that such a system could be used to provide, for example, location information to generic communication devices and would therefore expand the capabilities of the system and components.

Also, while Suzuki, in the business of credit authorization provides for authorization transactions where a communication device is co-located with a transaction, he does not provide for allowing when the devices are not co-located with the transaction.

Joao et al., in the same field of endeavor of credit authorization provides:

[0041] In cases when the cardholder is the party to the transaction, he or she, having the communication device with, or on, his or her person, may authorize the transaction at the point-of-sale location or from his or her remote location. The cardholder may also program and/or set the communication device to automatically authorize or disapprove or disallow transactions.

Therefore, it would have been obvious to one skilled in the art at the time of invention to allow transactions when a communication device and a transaction are not co-located, motivated by Joao et al., and that such capability would permit authorized transactions in all situations, enhancing the usefulness of the device.

#### Regarding claims 2, 9, 15

The method of claim 1 further comprising:

Responsive to not receiving the instruction from the user associated with the account, denying the request when the second location of the transaction is different from the first location of the communication device.

#### Suzuki discloses:

"Transaction authorization computer 400 then compares this information with the current location information for the cellular phone and calculates the distance.... If the distance is greater than 10 m, it is determined that this is fraudulent use of the card." (col. 12, lines 29-37). The user provides no input to accomplish this.

Regarding claims 3, 10, and 16

The method of claim 1 further comprising authorizing the request when the second location of the transaction matches the first location of the communication device.

Suzuki discloses:

"Transaction authorization computer 400 then compares this information with the current location information for the cellular phone and calculates the distance. In the present embodiment, if the distance between these locations is within 10 m, for example, it is determined that the person carrying the registered cellular phone is at member store 3000 and that the credit card user is a valid user." (col. 12, lines 29-37)

Regarding claims 4 and 11:

The method of claim 1 wherein the request for authorization is received at a merchant location.

Suzuki discloses:

Figure 1 provides a member store location with a card transaction terminal. Also...

"Upon receiving a request for credit administration from the member store transaction terminal 300, the transaction processor 420 of the transaction authorization computer searches the database with the card number, checks for a "report of loss or theft"..." (col. 11, lines 58-65).

Regarding claims 5, 12, and 17

The method of claim 1 further comprising validating the account.

Suzuki discloses:

"Upon receiving a request for credit administration from the member store transaction terminal 300, the transaction processor 420 of the transaction authorization computer searches the database with the card number, checks for a "report of loss or theft"..." (col. 11, lines 58-65).

Regarding claims 6, 13, and 18:

The method of claim 1 further comprising determining whether the transaction is within a predefined credit limit.

Suzuki discloses:

"... and compares the transaction amount with the amount available for purchases calculated by subtracting the "amount paid by card (this month)" from the credit or purchase limit per month." (col. 11, lines 58-65).

Regarding claims 7, 19, and 20:

The method of claim 1 wherein the instruction substitutes a designation for the second location of the transaction with a predefined location, and wherein the predefined location is different from the second location.

As noted above in response to claim 1, Joao et al. provides:



[0041] In cases when the cardholder is the party to the transaction, he or she, having the communication device with, or on, his or her person, may authorize the transaction at the point-of-sale location or from his or her remote location. The cardholder may also program and/or set the communication device to automatically authorize or disapprove or disallow transactions.

### ***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth L. Bartley whose telephone number is (571) 272-5230. The examiner can normally be reached on Monday through Friday, 8:00 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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